



House of Representatives

General Assembly

File No. 297

February Session, 2002

Substitute House Bill No. 5708

House of Representatives, April 3, 2002

The Committee on Environment reported through REP. STRATTON of the 17th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING REVISIONS TO THE CONNECTICUT ENVIRONMENTAL POLICY ACT.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 22a-1b of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2002*):

3 [The General Assembly directs that, to the fullest extent possible:]

4 (a) As used in sections 22a-1b to 22a-1i, inclusive, as amended by
5 this act:

6 (1) "Sponsoring agency" means the state agency, department or
7 institution responsible for the preparation of an environmental impact
8 evaluation or environmental assessment.

9 (2) "Early public scoping process" means a comment period and a
10 public scoping meeting.

11 (3) "Public scoping meeting" means a meeting in which members of
12 the public and interested agency representatives may participate in an
13 informational discussion regarding a proposed action by the
14 sponsoring agency which may affect the environment that is held
15 before the sponsoring agency selects the final site for the action or the
16 exact configuration of the action.

17 (4) "Environmental impact evaluation" means a detailed written
18 document concerning the environmental impacts of a proposed action,
19 as described in subsection (d) of this section.

20 (5) "Environmental assessment" means a document prepared
21 pursuant to section 22a-1f, as amended by this act.

22 (6) "Environmental Monitor" means a publication issued by the
23 Council on Environmental Quality.

24 [(a)] (b) Each state department, institution or agency shall review its
25 policies and practices to insure that they are consistent with the state's
26 environmental policy as set forth in sections 22a-1 and 22a-1a.

27 (c) (1) Each sponsoring agency shall, prior to a decision to draft an
28 environmental impact evaluation pursuant to subsection (d) of this
29 section for an action which may significantly affect the environment or
30 an environmental assessment, conduct an early public scoping process.

31 (2) To initiate an early public scoping process, the sponsoring
32 agency shall simultaneously provide notice on a form that has been
33 approved by the Council on Environmental Quality, which form shall
34 include, but not be limited to, the date, time and location of the
35 proposed public scoping meeting and the duration of the public
36 comment period pursuant to subdivision (3) of this subsection, to the
37 council, the Office of Policy and Management and to any other state
38 agency whose activities may reasonably be expected to affect or be
39 affected by the proposed action.

40 (3) Members of the public and any interested state agency
41 representatives may submit comments on the nature and extent of any

42 environmental impacts of the proposed action during the forty-five
43 days following the filing of the notice of the early public scoping
44 process pursuant to this section.

45 (4) The sponsoring agency shall hold a public scoping meeting not
46 less than twenty-five days and not more than thirty-five days
47 following the filing of the notice of the early public scoping process
48 pursuant to this section, except that any public meeting held prior to
49 the initiation of the early public scoping process may satisfy this
50 subdivision if the public and any state agency that will be affected by
51 the proposed action had an opportunity at such meeting to comment
52 on the proposed action.

53 (5) Any agency submitting comments or participating in the public
54 scoping meeting pursuant to this section shall include, but not be
55 limited to, information about (A) the resources of any proposed site of
56 the proposed action, (B) any plans of the commenting agency that may
57 affect or be affected by the proposed action, (C) any permits or
58 approvals that may be necessary for the proposed action, and (D) any
59 appropriate measures that would mitigate the impact of the proposed
60 action, including, but not limited to, recommendations as to preferred
61 sites for the proposed action or alternatives for the proposed action
62 that have not been identified by the sponsoring agency.

63 (6) The sponsoring agency shall consider any comments received
64 pursuant to this section or any information obtained during the public
65 scoping meeting in selecting the proposed actions to be addressed in
66 the environmental impact evaluation or environmental assessment and
67 shall evaluate in its environmental impact evaluation or environmental
68 assessment any substantive issues raised during the early public
69 scoping process that pertain to a proposed action or site or alternative
70 actions or sites.

71 [(b)] (d) Each state department, institution or agency responsible for
72 the primary recommendation or initiation of actions which may
73 significantly affect the environment shall in the case of each such
74 proposed action make a detailed written evaluation of its

75 environmental impact before deciding whether to undertake or
76 approve such action. All such environmental impact evaluations shall
77 be detailed statements setting forth the following: (1) A description of
78 the proposed action which shall include, but not be limited to, a
79 description of the purpose and need of the proposed action, and, in the
80 case of a proposed facility, a description of the infrastructure needs of
81 such facility, including, but not limited to, parking, water supply,
82 wastewater treatment and the square footage of the facility; (2) the
83 environmental consequences of the proposed action, including
84 cumulative, direct and indirect effects which might result during and
85 subsequent to the proposed action; (3) any adverse environmental
86 effects which cannot be avoided and irreversible and irretrievable
87 commitments of resources should the proposal be implemented; (4)
88 alternatives to the proposed action, including the alternative of not
89 proceeding with the proposed action [; (5)] and, in the case of a
90 proposed facility, a list of all the sites controlled by or reasonably
91 available to the sponsoring agency that would meet the stated purpose
92 of such facility; (5) an evaluation of the proposed action's consistency
93 and each alternative's consistency with the state plan of conservation
94 and development, an evaluation of each alternative in terms of
95 whether it avoids, minimizes, or mitigates environmental impacts,
96 and, where appropriate, a detailed mitigation [measures] plan
97 proposed to minimize environmental impacts, including, but not
98 limited to, where appropriate, a site plan; (6) an analysis of the short
99 term and long term economic, social and environmental costs and
100 benefits of the proposed action; (7) the effect of the proposed action on
101 the use and conservation of energy resources; and (8) a description of
102 the effects of the proposed action on sacred sites or archaeological sites
103 of state or national importance. In the case of an action which affects
104 existing housing, the evaluation shall also contain a detailed statement
105 analyzing (A) housing consequences of the proposed action, including
106 direct and indirect effects which might result during and subsequent
107 to the proposed action by income group as defined in section 8-37aa
108 and by race, and (B) the consistency of the housing consequences with
109 the long-range state housing plan adopted under section 8-37t. As used

110 in this section, "sacred sites" and "archaeological sites" shall have the
111 same meaning as in section 10-381.

112 (e) (1) The Council on Environmental Quality shall publish any
113 notices it receives pursuant to sections 22a-1b to 22a-1i, inclusive, as
114 amended by this act, twice each month in the Environmental Monitor.
115 Filings of such notices received by five o'clock p.m. on the fifteenth day
116 of each month shall be published in the Environmental Monitor that is
117 issued seven to ten days thereafter. Filings of such notices received
118 between the fifteenth and five o'clock p.m. on the last day of each
119 month shall be published in the Environmental Monitor that is issued
120 seven to ten days thereafter.

121 (2) The Council on Environmental Quality shall post the
122 Environmental Monitor on its Internet site and distribute a
123 subscription or a copy of the Environmental Monitor by electronic mail
124 to any state agency or person upon request. The council shall also
125 distribute the Environmental Monitor to each municipality for posting
126 in public libraries or town halls.

127 Sec. 2. Section 22a-1c of the general statutes is repealed and the
128 following is substituted in lieu thereof (*Effective October 1, 2002*):

129 [Actions which may significantly affect the environment are defined
130 for the purposes of section 22a-1b as] As used in sections 22a-1 to 22a-
131 1i, inclusive, as amended by this act, "actions which may significantly
132 affect the environment" means individual activities or a sequence of
133 planned activities proposed to be undertaken by state departments,
134 institutions or agencies, or funded in whole or in part by the state,
135 which could have a major impact on the state's land, water, air, historic
136 structures and landmarks as defined in section 10-320c, existing
137 housing, or other environmental resources, or could serve short term
138 to the disadvantage of long term environmental goals. [For the
139 purposes of section 22a-1b,] Such actions shall include but not be
140 limited to new projects and programs of state agencies and new
141 projects supported by state contracts and grants, but shall not include
142 (1) emergency measures undertaken in response to an immediate

143 threat to public health or safety; or (2) activities in which state agency
144 participation is ministerial in nature, involving no exercise of
145 discretion on the part of the state department, institution or agency.

146 Sec. 3. Section 22a-1d of the general statutes is repealed and the
147 following is substituted in lieu thereof (*Effective October 1, 2002*):

148 (a) [Evaluations required by sections 22a-1a to 22a-1f, inclusive,]
149 Environmental impact evaluations and a summary thereof, including
150 any negative findings, and environmental statements otherwise
151 required and prepared subsequent to July 8, 1975, shall be submitted
152 for comment and review to the Council on Environmental Quality, the
153 Department of Environmental Protection, the Connecticut Historical
154 Commission, the Department of Economic and Community
155 Development in the case of a proposed action that affects existing
156 housing, and other appropriate agencies, and to the town clerk of each
157 municipality affected thereby, and shall be made available to the
158 public for inspection and comment at the same time. The [department,
159 institution or agency responsible for preparing an evaluation]
160 sponsoring agency shall publish forthwith a notice of the availability of
161 [such] its environmental impact evaluation and summary in a
162 newspaper of general circulation in the municipality at least once a
163 week for three consecutive weeks and in the Connecticut Law Journal.
164 The [department, institution, or agency preparing an evaluation
165 required by section 22a-1b] sponsoring agency preparing an
166 environmental impact evaluation or finding that proposed action shall
167 have no significant environmental impact, shall hold a public hearing
168 on the evaluation or finding that proposed action shall have no
169 significant environmental impact if twenty-five persons or an
170 association having not less than twenty-five persons requests such a
171 hearing within ten days of the publication of the notice in the
172 Connecticut Law Journal.

173 (b) All comments received by the [agency, department or institution
174 preparing the evaluation] sponsoring agency shall be forwarded to the
175 Secretary of the Office of Policy and Management.

176 (c) All comments so forwarded to the Secretary of the Office of
177 Policy and Management shall be available for public inspection.

178 Sec. 4. Section 22a-1e of the general statutes is repealed and the
179 following is substituted in lieu thereof (*Effective October 1, 2002*):

180 The Office of Policy and Management shall review all [such
181 evaluations and statements,] environmental impact evaluations
182 together with the comments thereon, and shall make a written
183 determination as to whether such evaluation or finding satisfies the
184 requirements of this part and regulations adopted pursuant thereto,
185 which determination shall be made public and forwarded to the
186 agency, department or institution preparing such evaluation. Such
187 determination may require the revision of any evaluation found to be
188 inadequate. Any member of the Office of Policy and Management
189 which has prepared an evaluation and submitted it for review shall not
190 participate in the decision of the office on such evaluation. The
191 [agency, department or institution preparing the evaluation]
192 sponsoring agency shall take into account all public and agency
193 comments when making its final decision on the proposed action.

194 Sec. 5. Section 22a-1f of the general statutes, as amended by section
195 54 of public act 01-4 of the June special session, is repealed and the
196 following is substituted in lieu thereof (*Effective October 1, 2002*):

197 (a) [Evaluations required by section 22a-1b] Environmental impact
198 evaluations need not be prepared for projects for which environmental
199 statements have previously been prepared pursuant to other state or
200 federal laws or regulations, provided all such statements shall be
201 considered and reviewed as if they were prepared under sections 22a-
202 1a to 22a-1f, inclusive, as amended by this act.

203 (b) [Evaluations required by section 22a-1b] Environmental impact
204 evaluations shall not be required for the Connecticut Juvenile Training
205 School project, as defined in subsection (l) of section 4b-55, and the
206 extension of such project otherwise known as the Connecticut River
207 Interceptor Sewer Project, or a project, as defined in subdivision (16) of

208 section 10a-109c, which involves the conversion of an existing
209 structure for educational rather than office or commercial use.

210 (c) A constituent unit of the state system of higher education may
211 provide for [the evaluations required pursuant to section 22a-1b]
212 environmental impact evaluations for any priority higher education
213 facility project, as defined in subsection (f) of section 4b-55, or for any
214 higher education project involving an expenditure of not more than
215 two million dollars, by (1) reviewing and filing the evaluation for such
216 project with the Office of Policy and Management for its review
217 pursuant to section 22a-1e, as amended by this act, or (2) including
218 such project in a cumulative environmental assessment approved by
219 the Office of Policy and Management.

220 Sec. 6. Section 22a-12 of the general statutes is amended by adding
221 subsection (c) as follows (*Effective October 1, 2002*):

222 (NEW) (c) Upon submitting its report to the Governor pursuant to
223 this section, the council shall publish the report in the Environmental
224 Monitor, as defined in section 22a-1b, as amended by this act.

225 Sec. 7. (NEW) (*Effective October 1, 2002*) The Office of Policy and
226 Management, in conjunction with the Department of Environmental
227 Protection, shall be responsible for enforcing the implementation of
228 any mitigation plan developed pursuant to section 22a-1b of the
229 general statutes, as amended by this act, and approved pursuant to
230 section 22a-1e of the general statutes, as amended by this act. Upon
231 receipt of a complaint from any person that the sponsoring agency has
232 not properly implemented such mitigation plan, the Office of Policy
233 and Management, in conjunction with the Department of
234 Environmental Protection, shall investigate such complaint and take
235 any action necessary to enforce the implementation of the plan.

This act shall take effect as follows:	
Section 1	<i>October 1, 2002</i>
Sec. 2	<i>October 1, 2002</i>

Sec. 3	<i>October 1, 2002</i>
Sec. 4	<i>October 1, 2002</i>
Sec. 5	<i>October 1, 2002</i>
Sec. 6	<i>October 1, 2002</i>
Sec. 7	<i>October 1, 2002</i>

ENV *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Fund-Type	Agency Affected	FY 03 \$	FY 04 \$
Various Funds-Costs	Departments of Transportation; Economic and Community Development; Environmental Protection; Office of Policy and Management; Council on Environmental Quality; Various	Significant	Significant

Municipal Impact: None

Explanation

This bill makes various changes to the Connecticut Environmental Policy Act (CEPA) which increase costs to the state. These changes include the creation of a "public scoping process", increasing the amount of information environmental impact evaluations must contain, expanding the applicability of actions affecting the environment to CEPA, notice requirements and reviews.

It is estimated that the Council of Environmental Quality (CEQ) can post notices twice monthly in the Environmental Monitor within budgetary resources. This procedure can be handled electronically through CEQ's website. However, continuously updating a distribution list, with the burden on CEQ to distribute the information to state agencies, any person requesting the information and each municipality, could increase costs not currently budgeted for.

It is anticipated that the Department of Economic and Community Development (DECD) will incur additional costs due to the public scoping process. It is estimated that this process would impact approximately 20 projects a year. These projects would not have required the public information process as required in the bill. It is

anticipated that each project would utilize 4 employees for 48 hours, in addition to consultant costs, totaling \$7,300. For the approximately 20 projects, the additional costs would be approximately \$146,000 per year.

It is anticipated that 4 projects a year would be impacted at the Department of Environmental Protection (DEP). These projects would require an early scoping process. Additional costs incurred by the DEP for staff time are estimated at \$25,000-\$30,000 per year.

The bill also requires the Office of Policy and Management (OPM), in conjunction with the DEP, to enforce the mitigation plan. It is anticipated that OPM will require one additional staff person with associated annual expenses of \$85,000 and \$20,000 for legal fees in order to implement these provisions. Contingent on the hiring of an additional person at OPM, the DEP can assist OPM, within existing resources.

The Department of Transportation (DOT) indicates that any revision to the Connecticut Environmental Protection Act would require a briefing by DOT's Office of Environmental Planning for other DOT staff. Five briefings to 150 DOT staff conducted by three environmental planning staff is estimated to result in a one-time cost of about \$13,600, which can be absorbed within DOT's current budget.

However, DOT also believes that the bill could require scoping for many projects for which no significant environmental impacts are anticipated. DOT estimates that there are up to 200 of these projects per year. Assuming that no substantive comments are received, each scoping process would require about 238 person hours to prepare, conduct and document. This is a cost of about \$10,000 per project, for a potential total cost of \$2 million per year.

Additional agencies could incur costs not specified for due to the changes in CEPA. The exact impact is indeterminate at this time.

OLR Bill Analysis

sHB 5708

AN ACT CONCERNING REVISIONS TO THE CONNECTICUT ENVIRONMENTAL POLICY ACT**SUMMARY:**

This bill creates a "public scoping process" to provide the public with information about the environmental impact of a state agency action before it chooses a final site or exact configuration. It requires a state agency proposing an action that may affect the environment (a "sponsoring agency") to hold an informational meeting and receive comments from the public and other state agencies before deciding to draft an environmental impact evaluation (EIE). By law and regulation, an EIE is a detailed written document about the environmental impact of a proposed action.

The bill requires the sponsoring agency to respond to substantive issues raised during the scoping process in the EIE or environmental assessment it prepares. (The bill's definition of environmental assessment is unclear and differs from that in regulations. By regulation, an environmental assessment is a process to determine if a proposed action may have a significant impact on the environment.)

The bill increases the amount of information EIEs must include. It requires a sponsoring agency, where appropriate, to prepare detailed plans to mitigate the environmental impact of its proposed actions for review and approval by the Office of Policy and Management (OPM). It authorizes OPM and the Department of Environmental Protection (DEP) to enforce such plans once approved and to investigate complaints that they are not being properly implemented.

The bill expands the applicability of "actions affecting the environment" to CEPA statutes concerning evaluation reviews, notice to municipalities, OPM review, and the public health department's risk assessment of environmental contamination. Under current law, this definition applies only to the law concerning EIEs.

The bill requires the Council on Environmental Quality to post notices

pertinent to the public scoping process twice monthly in the "Environmental Monitor," a publication the bill creates, and specifies when notice must be published and to whom it must be distributed. It requires the council to publish its annual report in the Monitor after submitting it to the governor.

The bill also makes conforming changes.

EFFECTIVE DATE: October 1, 2002

PUBLIC SCOPING PROCESS

The purpose of the Connecticut Environmental Policy Act (CEPA) is to identify and evaluate the impact of proposed state actions that could significantly affect the environment. By law, an action is an individual activity, or sequence of planned activities, proposed by a state department, institution, or agency, or funded in whole or in part by the state. CEPA requires that an agency proposing such an action prepare an EIE before deciding whether to proceed.

The bill requires a sponsoring agency to hold an informational meeting before choosing either the final site or exact configuration for its proposed action, and before it drafts an EIE or environmental assessment.

The sponsoring agency must simultaneously provide notice of the scoping process, on a form the council approves, to (1) the council, (2) OPM, and (3) any other state agency whose activities the proposed action may reasonably affect. Notice must include the date, time and location of the meeting, and the duration of the public comment period.

The sponsoring agency must hold an informational meeting between 25 and 35 days after it files notice. But it need not hold the meeting if the public already had an opportunity to comment on the proposed action at a meeting held before the sponsoring agency began the scoping process. State agency representatives and the public have 45 days after notice is filed to comment on the proposed action's environmental impact. Thus, they can submit comments for between 10 and 20 days after the meeting.

State Agency Comments

The bill requires a state agency commenting on a sponsoring agency's proposed action to discuss:

1. the resources of any site being considered for the proposed action;
2. any of its plans that may affect or be affected by the proposed action;
3. permits or approvals the proposed action requires; and
4. appropriate measures to mitigate the proposed action's impact, including alternative sites, or alternatives to the proposed action the sponsoring agency has not yet identified.

The bill requires the sponsoring agency to consider the comments it receives in deciding which proposed actions to address in its EIE or environmental assessment. It must evaluate in its EIE or environmental assessment any substantive issues raised that pertain to a proposed action or site or alternative actions or sites.

Environmental Impact Evaluations

The bill increases the amount of information EIEs must provide. Under current law, an EIE must include, among other information, a description of the proposed action, information about possible direct and indirect environmental consequences, and adverse environmental effects that cannot be avoided. To these, the bill adds information about proposed actions in general and proposed facilities in particular. It requires the sponsoring agency to consider alternative sites for the proposed action.

For all proposed actions, the bill requires the EIE to include:

1. a description of the proposed action's purpose and need;
2. the cumulative effects on the environment, in addition to the direct and indirect effects on the environment the law already requires, that might result during and after the proposed action;
3. an evaluation of the consistency of the proposed action and each alternative with the State Plan of Conservation and Development;
4. an evaluation of whether each alternative avoids, minimizes, or mitigates any environmental impact; and
5. a detailed mitigation plan that includes a site plan, where appropriate. (Under current law, an EIE must include mitigation measures to minimize environmental impacts.)

In addition, the bill requires that EIEs for proposed facilities include:

1. a description of the proposed facility's infrastructure needs, including parking, water supply, and wastewater treatment, as well as the facility's size; and
2. a list of all sites controlled by, or reasonably available to, the sponsoring agency that would meet the stated purpose of the proposed facility.

ENVIRONMENTAL MONITOR

The bill requires the council to publish notices twice monthly in the Environmental Monitor. Notices received before the 15th of each month must be published in one issue and remaining notices in the second issue. Notices must be published between 7 and 10 days after they are received. The council must post the Monitor on its Internet site and send a subscription or copy by e-mail to any state agency or person requesting it. It also must distribute the Monitor to each municipality for posting in town halls or public libraries.

BACKGROUND

Connecticut Environmental Policy Act

This Act is meant to identify and evaluate the impact of proposed state actions that could significantly affect the environment. It does not mandate a particular outcome or prohibit certain activities. It requires that certain information be available to decision makers and the public, and that it be considered in deciding whether and how to proceed with the project.

Actions Affecting the Environment

By law, an action is an individual activity or sequence of planned activities proposed by state departments, institutions or agencies, or funded in whole, or in part, by the state. An action affecting the environment is one that could (1) have a major impact on the state's land, water, air, certain historic landmarks and structures, existing housing or other environmental resource, or (2) serve short-term to the disadvantage of long-term environmental goals. It does not include emergency measures undertaken in response to an immediate threat to public health or safety, or ministerial activities, involving no exercise

of discretion on the state agency's part.

COMMENT

Definition of Environmental Assessment

The bill defines "environmental assessment" as a document prepared according to CGS § 22a-1f. However, that section does not define the term and refers to it only in the context of higher education projects. By regulation, an environmental assessment is a process to determine if a proposed action may have a significant impact on the environment. The process requires a sponsoring agency to undertake an environmental assessment, using specific criteria, to determine if it needs to prepare an EIE or Finding of No Significant Impact (a written document indicating a proposed action would not have a significant environmental impact).

COMMITTEE ACTION

Environment Committee

Joint Favorable Substitute

Yea 28 Nay 0